

Message Text

CONFIDENTIAL

PAGE 01 CARACA 10644 031230Z

47

ACTION ARA-10

INFO OCT-01 ISO-00 ERDA-05 AID-05 CEA-01 CIAE-00 CIEP-01

COME-00 DODE-00 EB-07 FEAE-00 FPC-01 H-02 INR-07

INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04 USIA-06

SAM-01 OES-06 SP-02 SS-15 STR-04 TRSE-00 ACDA-07 /099 W

----- 103188

R 022122Z SEP 76

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 4615

C O N F I D E N T I A L CARACAS 10644

E.O. 11652: GDS

TAGS: ENRG, EINV, VE

SUBJECT: BACK TAX CLAIM AGAINST OIL COMPANIES REAFFIRMED

REF: CARACAS 6065

BEGIN UNCLASSIFIED

1. IN A DECISION ANNOUNCED AUGUST 27 AND REPORTED IN PRESS OVER WEEKEND, OFFICE OF THE COMPTROLLER GENERAL REAFFIRMED CLAIM FOR 2.2 BILLION BOLIVARS (\$524 MILLION) IN BACK TAXES AGAINST 36 FORMER OIL CONCESSIONAIRES. CLAIM, ORIGINALLY MADE IN MARCH 1976, IS BASED ON INTERPRETATION BY COMPTROLLER'S OFFICE OF WORDING OF CONGRESSIONAL TAX AMENDMENT PASSED IN LATE 1970. COMPANIES PROTESTED ORIGINAL CLAIM, ARGUING THAT HIGHER TAX RATES APPLIED ONLY FROM DATE OF IMPLEMENTING ORDER BY MINISTRY OF MINES (MARCH 1971) AND WERE NOT RETRO-ACTIVE FOR FULL 1970 TAX YEAR AS CLAIMED BY COMPTROLLER'S OFFICE. LATEST DECISION APPEARS TO REJECT COMPANY ARGUMENTS.

END UNCLASSIFIED

BEGIN CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 CARACA 10644 031230Z

2. ORIGINAL BACK TAX CLAIM RECEIVED LITTLE OR NO SUPPORT FROM MAJOR POLITICAL PARTIES. EMBASSY AND COMPANY OFFICERS HAVE BEEN ASSURED REPEATEDLY BY GOVERNMENT OFFICIALS THAT ISSUE WOULD NOT BECOME A SERIOUS PROBLEM. CLAIM SAID TO HAVE QUESTIONABLE LEGAL BASIS, AND GENERALLY DESCRIBED AS AN INDEPENDENT ACTION BY THEN COMPTROLLER GENERAL JOSE MUCI ABRAHAM. WITH MUCI'S SUBSEQUENT RESIGNATION, AND APPOINTMENT OF NEW COMPTROLLER, JOSE ANDRES OCTAVIO, IT WAS EXPECTED THAT REPLIES TO COMPANY PROTESTS WOULD BE DELAYED OR THAT CLAIM WOULD DIE QUIETLY.

3. LATEST DECISION, ACCORDING TO SECRETARY OF THE OFFICE OF THE COMPTROLLER, TAKEN AFTER BOTH OCTAVIO AND ASSISTANT COMPTROLLER DISQUALIFIED THEMSELVES FROM ACTING IN CASE DUE TO PRIOR ASSOCIATIONS WITH OIL COMPANIES. THIS PLACED MATTER BACK IN HANDS OF COMPTROLLER'S STAFF, WHO HAD DEVELOPED ORIGINAL CASE.

4. LOCAL REPRESENTATIVES OF OIL COMPANIES SERIOUSLY CONCERNED BY IMPLICATIONS OF RECENT ANNOUNCEMENT BUT ARE REACTING CAUTIOUSLY. AS OF EARLY THIS WEEK ONE COMPANY, EXXON, HAD RECEIVED FORMAL NOTICE FROM COMPTROLLER'S OFFICE REJECTING PROTEST. COMPANY LAWYERS EXPECT TO MEET IN NEXT FEW DAYS TO CONSIDER FUTURE COURSE OF ACTION.

5. MOST SOURCES AGREE THAT LATEST ACTION BY COMPTROLLER'S OFFICE COMPLETES ADMINISTRATIVE PROCEDURES. COMPANIES MAY NOW APPEAL COMPTROLLER'S FINDINGS IN TAX COURT, WHERE THEY BELIEVE THEY HAVE STRONG CASE. THEIR MAJOR CONCERN WITH RESPECT TO JUDICIAL APPEAL APPEARS TO BE WHETHER OR NOT THEY WILL BE REQUIRED TO FIRST PAY CLAIM OR AT LEAST POST BOND FOR FULL AMOUNT. SOME COMPANIES ADVISE US THAT SUCH A REQUIREMENT WOULD CAUSE THEM TO RECONSIDER DECISION TO CONTINUE OPERATIONS IN VENEZUELA. WHILE LOCAL COMPANY REPRESENTATIVES ARE RELUCTANT TO SPECULATE AT THIS POINT ON POSSIBLE FUTURE ACTIONS, DR. ANDRES AGUILAR, KNOWLEDGEABLE LOCAL ATTORNEY AND A DIRECTOR OF PETROVEN, TOLD POLITICAL COUNSELOR, SEPTEMBER 1 THAT COMPTROLLER'S DECISION LIKELY TO BE QUICKLY REJECTED BY THE COURT. AGUILAR
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 CARACA 10644 031230Z

UNABLE TO SAY, HOWEVER, WHETHER PRIOR PAYMENT OR BOND WOULD BE REQUIRED. AGUILAR ALSO POINTED OUT THAT C.V.P, THE ONLY GOVERNMENT OWNED PETROLEUM COMPANY IN 19709, WOULD ALSO BE LIABLE FOR ABOUT 80 MILLION BOLIVARS (\$20 MILLION) IN BACK TAXES UNDER THE COMPTROLLER'S CLAIM.

6. EMBASSY WILL PROVIDE ADDITIONAL INFORMATION WHEN AVAILABLE.

7. COMMENT: IT IS STILL TOO EARLY TO ASSESS FULL MEANING OF COMPTROLLER'S ACTION, BUT EMBASSY BELIEVES IT SHOULD NOT BE VIEWED WITH UNDUE ALARM. OUTSIDE COMPTROLLER'S OFFICE, CASE IS WIDELY REGARDED AS RESTING ON VERY WEAK LEGAL GROUNDS. IN ADDITION, PRESIDENT PEREZ'S ADMINISTRATION APPEARS TO HAVE GOOD REASONS FOR SEEING THAT CLAIM DOES NOT JEOPARDIZE SUCCESS OF NATIONALIZED OIL INDUSTRY, WHICH IN LARGE PART WILL DEPEND ON CONTINUED COOPERATION OF INTERNATIONAL OIL COMPANIES. CASE NOW SEEMS TO BE MOVING OUT OF HANDS OF COMPTROLLER, WHO WAS APPOINTED BY CONGRESS, AND INTO THOSE OF ADMINISTRATION AND COURTS. COMPANIES THEMSELVES MAY ALSO HAVE DIFFERING VIEWS ON SERIOUSNESS OF THIS LATEST STEP, DEPENDING ON THEIR READINGS OF FUTURE PROSPECTS IN VENEZUELA AND AMOUNTS OF BACK TAXES INVOLVED IN EACH CASE.
VAKY

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PETROLEUM INDUSTRY, CLAIMS, TAXES
Control Number: n/a
Copy: SINGLE
Draft Date: 02 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: blochd0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976CARACA10644
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760335-0283
From: CARACAS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760999/aaaadgmi.tel
Line Count: 133
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 CARACAS 6065
Review Action: RELEASED, APPROVED
Review Authority: blochd0
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by ShawDG>; APPROVED <02 NOV 2004 by blochd0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: BACK TAX CLAIM AGAINST OIL COMPANIES REAFFIRMED
TAGS: ENRG, EINV, EFIN, VE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006